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HOUSE BILL 82

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO CRUELTY TO ANIMALS; CLARIFYING THE PENALTY FOR
INTENTIONALLY STARVING OR DEHYDRATING AN ANIMAL TO DEATH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-18-1 NMSA 1978 (being Laws 1999,
Chapter 107, Section 1, as amended) is amended to read:

"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO
ANIMALS--PENALTIES--EXCEPTIONS.--

A. As used in this section, "animal" does not
include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing
without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary
sustenance to an animal under that person's custody or control.

underscored material = new
[bracketed material] = delete

1 C. As used in Subsection B of this section, "lawful
2 justification" means:

3 (1) humanely destroying a sick or injured
4 animal; or

5 (2) protecting a person or animal from death
6 or injury due to an attack by another animal.

7 D. Whoever commits cruelty to animals is guilty of
8 a misdemeanor and shall be sentenced pursuant to the provisions
9 of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent
10 conviction for committing cruelty to animals, the offender is
11 guilty of a fourth degree felony and shall be sentenced
12 pursuant to the provisions of Section 31-18-15 NMSA 1978.

13 E. Extreme cruelty to animals consists of a person:

14 (1) intentionally or maliciously torturing,
15 mutilating, injuring or poisoning an animal; [~~or~~]

16 (2) intentionally or maliciously starving or
17 dehydrating an animal to death; or

18 [~~(2)~~] (3) maliciously killing an animal.

19 F. Whoever commits extreme cruelty to animals is
20 guilty of a fourth degree felony and shall be sentenced
21 pursuant to the provisions of Section 31-18-15 NMSA 1978.

22 G. The court may order a person convicted for
23 committing cruelty to animals to participate in an animal
24 cruelty prevention program or an animal cruelty education
25 program. The court may also order a person convicted for

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1 committing cruelty to animals or extreme cruelty to animals to
2 obtain psychological counseling for treatment of a mental
3 health disorder if, in the court's judgment, the mental health
4 disorder contributed to the commission of the criminal offense.
5 The offender shall bear the expense of participating in an
6 animal cruelty prevention program, animal cruelty education
7 program or psychological counseling ordered by the court.

8 H. If a child is adjudicated of cruelty to animals,
9 the court shall order an assessment and any necessary
10 psychological counseling or treatment of the child.

11 I. The provisions of this section do not apply to:

12 (1) fishing, hunting, falconry, taking and
13 trapping, as provided in Chapter 17 NMSA 1978;

14 (2) the practice of veterinary medicine, as
15 provided in Chapter 61, Article 14 NMSA 1978;

16 (3) rodent or pest control, as provided in
17 Chapter 77, Article 15 NMSA 1978;

18 (4) the treatment of livestock and other
19 animals used on farms and ranches for the production of food,
20 fiber or other agricultural products, when the treatment is in
21 accordance with commonly accepted agricultural animal husbandry
22 practices;

23 (5) the use of commonly accepted Mexican and
24 American rodeo practices, unless otherwise prohibited by law;

25 (6) research facilities licensed pursuant to

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~~[bracketed material] = delete~~

1 the provisions of 7 U.S.C. Section 2136, except when knowingly
2 operating outside provisions, governing the treatment of
3 animals, of a research or maintenance protocol approved by the
4 institutional animal care and use committee of the facility; or

5 (7) other similar activities not otherwise
6 prohibited by law.

7 J. If there is a dispute as to what constitutes
8 commonly accepted agricultural animal husbandry practices or
9 commonly accepted rodeo practices, the New Mexico livestock
10 board shall hold a hearing to determine if the practice in
11 question is a commonly accepted agricultural animal husbandry
12 practice or commonly accepted rodeo practice."